

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**STEPHEN HURLEY,  
MICHAEL WOOD,  
RANDY CURRIE,  
FRANCIS TALORICCO, JR., and  
RENEE DOUGHERTY,**  
Plaintiffs,

**CIVIL ACTION**

**NO. 18-5320**

v.

**BMW OF NORTH AMERICA, LLC,  
Defendant.**

**O R D E R**

**AND NOW**, this 2nd day of April, 2020, upon consideration of defendant's Motion to Dismiss First Amended Complaint and/or in the Alternative, to Sever (Document No. 14, filed March 6, 2019), plaintiffs' Opposition to BMW of North America, LLC's Motion to Dismiss and/or to Sever (Document No. 19, filed April 3, 2019), defendant's Brief in Reply to Plaintiffs' Opposition to Defendant's Motion to Dismiss Plaintiffs' First Amended Complaint Pursuant to Fed. R. Civ. Pro. 12(b)(1) and (6) and/or to Sever (Document No. 22, filed April 17, 2019), and the related filings of the parties, for the reasons stated in the Memorandum dated April 2, 2020,

**IT IS ORDERED** that defendant's Motion to Dismiss is **GRANTED IN PART** and **DENIED IN PART**, as follows:

1. That part of defendant's Motion to Dismiss seeking dismissal of plaintiffs' claims for lack of standing and absence of subject matter jurisdiction is **DENIED WITHOUT PREJUDICE** to defendant's right to raise those issues after completion of discovery by motion for summary judgment and/or at trial if warranted by the facts and applicable law as set forth in the accompanying Memorandum dated April 2, 2020.
2. That part of defendant's Motion to Dismiss seeking dismissal of plaintiffs' claims under the Pennsylvania Unfair Trade Practices and Consumer Protection Law, 73 Pa. Cons. Stat.

§ 201-1 *et seq.* in Count IV of the First Amended Complaint is **GRANTED** and all such claims are **DISMISSED WITH PREJUDICE**.

3. That part of defendant's Motion to Dismiss seeking dismissal of plaintiffs' express warranty claims under state law and the Magnuson-Moss Warranty Act, 15 U.S.C. §2301, *et seq.* in Counts I and II of the First Amended Complaint is **DENIED WITHOUT PREJUDICE** to defendant's right to raise that issue after completion of discovery by motion for summary judgment and/or at trial if warranted by the facts and applicable law as set forth in the accompanying Memorandum dated April 2, 2020.

4. That part of defendant's Motion to Dismiss seeking dismissal of plaintiffs' implied warranty claims under state law and the Magnuson-Moss Warranty Act, 15 U.S.C. §2301, *et seq.* in Counts I and III of the First Amended Complaint is **GRANTED** and all such claims are **DISMISSED WITHOUT PREJUDICE** to plaintiffs' right to file a second amended complaint within fifteen (15) days asserting those claims if warranted by the facts and applicable law as set forth in the accompanying Memorandum dated April 2, 2020.

5. That part of defendant's Motion to Dismiss seeking severance of plaintiffs' claims is **DENIED**.

6. Defendant's Motion to Dismiss is **DENIED** in all other respects.

**IT IS FURTHER ORDERED** that a Preliminary Pretrial Conference will be scheduled in due course. Discovery may proceed in the interim.

**BY THE COURT:**

/s/ **Hon. Jan E. DuBois**

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**DuBOIS, JAN E., J.**